

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

CARLOS RUBEN ARROYO-MARTINEZ, *
MARIA DE LOS MILAGROS PACHECO-SAEZ *
and the legal society of earnings *
Plaintiffs *

CIVIL NO. 17-2210

Vs. *

ABOUT:

COMMONWEALTH OF PUERTO RICO, its *
agencies PUERTO RICO POLICE DEPARTMENT*
MICHELLE M. HERNANDEZ-DE FRALEY, *
COR. HECTOR E. AGOSTO-RODRIGUEZ, *
COMANDANTE PEREGRIN VAZQUEZ, *
JOHN DOE, RICHARD ROE and their respective *
insurance companies *
Defendants *

28 U.S.C. Sec 1331 et als and 1367
Title VII and 42 USC Sec 1983, 1985
Civil Rights Act 1964,
ADA and ADEA Discrimination
1802 and 1803 of PR Civil Code
TORTS

JURY TRIAL

COMPLAINT

TO THE HONORABLE COURT:

COME NOW plaintiffs, through the undersigned attorney and respectfully alleges and request as follows:

I. JURISDICTION:

1. This Honorable Court has jurisdiction pursuant to 28 United States Code §§ 1331 and under Title VII and 42 of the U. S. C., Section 1983, Civil Rights Act 1964, Age Discrimination (ADEA) and Discrimination and Retaliation under the American with Disability Act (ADA).

2. Plaintiff also invoke the article 1802 and 1803 of Puerto Rico Civil Code and the Puerto Rico Law against discrimination and retaliation under the supplemental jurisdiction principles in the interest of judicial efficiency and economy, 28 United States Code § 1367.

3. Plaintiffs invoke violation to Commonwealth of Puerto Rico Labor Laws including

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Public Law No. 80 of May 30, 1976 as amended, whistler blower act, state law against retaliation, and equivalent Federal Labor Laws (United States Code).

4. This Honorable Court also has venue pursuant to 28 United States Code § 1391 since the claims asserted in this action arose in this judicial district.

5. Plaintiff's civil rights (under 42nd of the United States Code, Section 1983, Civil Rights Act 1964), and other rights under other state and federal labor laws were and continue to be violated by co-defendants, whose actions or acts were under color of law.

6. Trial by jury is hereby requested.

II. PARTIES:

7. Plaintiffs Carlos Rubén Arroyo-Martínez and Maria de los Milagros Pacheco-Saez, are married, both of legal age, citizen of the United States and resident of Puerto Rico with address C-3 B-10 Collores, Juana Diaz, Puerto Rico 00795 and postal address HC-03 Box 12494, Juana Diaz, PR 00795.

8. The legal society of earnings (conjugal partnership) of co-plaintiffs Carlos Rubén Arroyo-Martínez and Maria de los Milagros Pacheco-Saez is included.

9. Defendant Commonwealth of Puerto Rico is the employer of plaintiff Carlos Rubén Arroyo-Martínez. It is represented by Honorable Wanda Vázquez, Secretary of Justice.

10. Co-defendant Puerto Rico Police Department is an agency of the state government of the Commonwealth of Puerto Rico, with its principal place of business in the said Commonwealth of Puerto Rico.

11. Co-defendant Michelle M. Hernández-De Fraley was the Superintendent of the

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Puerto Rico Police Department (Government of Puerto Rico) at the time of the facts alleged in the complaint. She was the immediate supervisor of the Puerto Rico Police Area Commanders and the ultimate supervisor of all policemen of the Puerto Rico Police Department (Government of Puerto Rico).

12. Co-defendant Colonel Héctor E. Agosto-Rodríguez is an employee or worked under contract as colonel of the Puerto Rico Police Department.

13. Co-defendant Peregrin Vázquez, is an employee or worked under contract as Comandante de Zona de Juana Díaz of the Puerto Rico Police Department.

14. John Doe and Richard Roe are those persons who are in any way responsible to cause the facts that give reason for this claim. Included are the insurance companies of all the defendants.

III. FACTS:

15. Plaintiff Carlos Rubén Arroyo-Martínez is a police officer serving for the last twenty nine (29) years in the force. His performance has been outstanding and it is reflected in his record.

16. Plaintiff Carlos Rubén Arroyo-Martínez suffered a work related accident on 1999. Due to the accident he developed a disability that impeded him to work as before even though he can performed his duties as he has been doing until now. He has been in medical treatment since then.

16. He has been evaluated several times by the Police Department physicians and psychologists, who has been certified him as able to work under some limitations and under reasonable accommodation under the ADA. They issued several return to duty orders/certifications entered in his record with copies submitted to his chain of command.

17. Plaintiff Carlos Rubén Arroyo-Martínez immediate supervisors has been objecting the

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physicians and psychologists recommendations and tried to go against their orders/certifications.

18. Plaintiff Carlos Rubén Arroyo-Martínez has been force to carry excessive weight, to be standing for long periods of time, to use inappropriate equipment, to travel long distance, etc.

19. Plaintiff Carlos Rubén Arroyo-Martínez' supervisors mocked him, they told him that he is overweight, needs to workout often, needs to practice sports in order to recuperated, that it is a matter of aging, it is just that he became old. They argued that plaintiff just does not want to work out of an office, implying that he is a lazy policeman.

20. Co-defendants Agosto-Rodríguez and Vázquez finally transferred plaintiff Arroyo-Martínez to a different work area as a retaliation to his complaints filed before the EEOC.

21. Plaintiff filed a complaint in the U. S. Equal Employment Opportunity Commission (EEOC) on January 31, 2017. The complaint was referred to the U. S. Department of Justice, Civil Rights Division issued a Notice of Right to Sue upon plaintiff's request. The Notice was received by Plaintiff on June 16, 2017.

22. The defendants, supervisors, administrators, directors were negligent and caused emotional and mental damage and anguish to the plaintiffs. The co-defendants while acting under color of law violated the Civil Rights discriminated against the plaintiff causing damages to the plaintiff. The defendants and their respective insurance companies are liable under the Civil Rights, and Article 1802 and 1803 of Puerto Rico Civil Code Law.

III. DAMAGES:

23. Plaintiff Carlos R. Arroyo-Martínez, was humiliated, discriminated, harassed, persecuted and his due process rights, damages estimated on \$500,000.00.

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24. Plaintiff Carlos R. Arroyo-Martínez, has suffered and continues to suffer, severe emotional distress, affliction, anguish, deprivation estimated on \$500,000.00.

25. Co-plaintiff, Maria de los Milagros Pacheco-Saez has suffered and continues to suffer, severe emotional distress, affliction, anguish, deprivation due to her husband suffering, estimated on \$500,000.00.

26. Plaintiff Carlos R. Arroyo-Martínez, rights under ADA and ADEA were violated and he was retaliated after he filed a complaint, humiliated, discriminated, harassed, persecuted, damages estimated on \$3,000,000.00.

IN WITNESS WHEREOF it is respectfully requested from this Honorable Court that judgment be entered against the defendant awarding damages to plaintiffs for no less than three millions dollars (**\$3,000,000.00**) plus cost, expenses, and a reasonable amount for attorneys fees, grant plaintiffs such other relief as it may deem proper under the circumstances and pursuant to Rule 38 (b) of the Federal Rules of Civil Procedure, plaintiffs also hereby request a trial.

JURY TRIAL DEMANDED.

RESPECTFULLY SUBMITTED.

In Ponce, Puerto Rico this 15th day of September of 2017.

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